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THE MICHIGAN CONSTITUTIONAL CONVENTION

A YEAR ago the writer of this article outlined in the MICHIGAN LAW REVIEW "Some Suggested Changes in the Constitution of Michigan," in view of the Constitutional Convention that had been called to revise the Constitution in force. Since that time the members of the convention have been elected; and after four months of earnest work, the results of its labors have been presented to the people of Michigan in the proposed revised Constitution, which will be submitted for their approval or disapproval at the general election in November of the present year. It is proposed in this article to present some account of the convention and the revised Constitution, and more especially to note the important changes from the present Constitution of the state.

THE CONVENTION

It was in April, 1906, that the people of Michigan voted that a convention to revise the Constitution should be held. The necessary act of the legislature to provide for the election of delegates might easily have been passed early in the session of 1907, and the delegates elected at the April election of that year. But the act was not passed until towards the end of the session, the delay being perhaps due to the hope of some members of the legislature that they would be returned as delegates. A ruling of the supreme court, however, declared members of the legislature ineligible, under the provision of the existing Constitution declaring them ineligible for appointment to any office created by the legislature of which they were members.

The act for the election of delegates provided for a body of 96 members, three to be elected from each senatorial district. In districts where the direct primary had been adopted, primaries were to be held on August 13th. The election of delegates was set for September 17th. The convention was to meet on October 22d. Delegates were to receive \$10.00 per day until January 31st, but might sit beyond that date without pay. Other provisions in regard to the organization and procedure of the convention were added. Some of these, it has been urged, were beyond the authority of the legislature to impose,—such as the provisions that the revised Constitution should be submitted to the electors as a whole, and that it should be submitted at a special election in April, 1907. On the latter point the supreme court has recently decided that the legislature did exceed its power.

Direct primaries for nominations were held in about half of the

districts. Both at these and at the election of delegates in September a very light vote was cast,—the more surprising in view of the large vote in April, 1906 (over 300,000) on the question of calling the convention. But, in explanation of this light vote, it may be said not only that the election was set for a special date, but that it came at an unusual time, the primaries in the middle of the summer. Another factor was the absence of active campaigning on the part of most of the candidates, the general consensus of opinion being that the usual political methods were out of place for this purpose.

It has been said that the members of the convention constituted the best and most representative assembly that has ever met in Michigan. It is at least clear that among the delegates were to be found men representing all classes of the population and wide differences of opinion; that most of them were men of intelligence and training, and a good proportion were men of the first order of ability; and that they worked earnestly and seriously in the task before them.

Sixty delegates were recorded as lawyers, whereas in the convention of 1850 a majority were farmers. Twenty were business men (including several wealthy capitalists, some bankers, and five manufacturers), seven were farmers, two were publishers, two were professors in educational institutions, and there was one clergyman and one carpenter. Forty-four members had been students at the University of Michigan, and a number of others had a college education at other institutions.

From a party classification the convention was overwhelmingly Republican, with only eight delegates elected as Democrats. But while on several important questions the convention was very closely divided, the regular party lines were not in evidence. To some extent the convention could be separated into a radical and a conservative group; but a middle group held the balance of power, and the final result was at least acceptable to all the members of the convention.

A good proportion of the delegates had previously served in the legislature or in other public posts. On the other hand, a large proportion had never before held public office, and among these were some of the ablest and strongest members, whose presence emphasized the importance of the work to be done.

Some preliminary canvassing for officers took place, but no formal caucus was held, and at the first session (October 22d) John J. Carton, twice speaker of the Michigan house of representatives, was unanimously elected president. After electing the other most

important officers a committee on permanent organization and order of business was appointed, which reported a plan of committees and employees, and was also made use of during the convention as a central committee to consider and report on important questions of convention procedure.

One of the first committees to be appointed was the committee on rules, on whose report a series of rules was adopted, based mainly on those of the Michigan house of representatives, but modified in several important features, so as to provide more ample opportunity for discussion and deliberation. The regular procedure for proposals deserves especially to be noted, as follows :

1. Introduction, first reading and reference to a committee.
2. Report of committee and placing in the general order.
3. Consideration in committee of the whole in order of reference.
4. Report by committee of the whole, and reference to the committee on arrangement and phraseology.
5. Report of committee on arrangement and phraseology.
6. Second reading, vote on passage by roll call.
7. Reference to committee on arrangement and phraseology.
8. Report of the complete revision by the committee on arrangement and phraseology.
9. Consideration of the complete revision in committee of the whole, by sections.
10. Report of the committee of the whole.
11. Third reading and passage (on roll call) by articles and as a whole.

Special attention may be called to the four different opportunities for discussion and amendment of every part of the revision in the convention, and to the double reference to the committee on arrangement and phraseology.

Other rules that may be noted were those providing for the reading and printing in full of all proposals, and reserving the power in a majority of the convention to discharge any committee from the consideration of any proposal.

Twenty-eight standing committees were appointed, each having from five to fifteen members, giving three committee places to most members of the convention. The largest committees, and the most important, were those on the legislative department, the judiciary, cities and villages, public service corporations, finance and taxation, and submission and address to the people,—each of fifteen members. The committee on miscellaneous provisions had thirteen members; the committees on executive department, private corporations, edu-

cation and liquor traffic had each eleven members; and the committees on counties and townships had each nine members.

Before appointing the committees the President invited the delegates to indicate their preferences, and these were apparently followed as far as possible. Among the chairmen of the more important committees may be mentioned: Henry M. Campbell, legislative department and permanent organization; R. H. Fyfe, the judiciary; Alfred Milnes, cities and villages; A. E. Sharpe, public service corporations; Roger I. Wykes, finance and taxation; Victor M. Gore, submission and address to the people; E. J. Adams, miscellaneous provisions and rules; Delos Fall, education; and A. L. Moore, liquor traffic. Most of these were delegates of large influence in the convention, but other members also played a prominent part.

Much of the important work of the convention was accomplished in the committees, and of this work detailed records are not available. For more than two months the convention as a whole held only afternoon sessions, leaving the mornings and afternoons for the meetings of committees. At these meetings the many proposals (over four hundred were introduced) were discussed more thoroughly and with greater freedom than was possible in the larger assembly. These committee discussions were supplemented by the even more informal discussions of groups of delegates who would gather in the intervals between more formal meetings to talk over one problem and another. The committees also received the petitions which were addressed to the convention; and all of the more important committees held one or more public hearings for the discussion of special questions by those not members of the convention. And the result of the committee work, while in no case depriving the convention of its full control over any subject, was that on many matters the conclusions of the committees were accepted with little or no debate in the convention.

On a few questions larger, but still informal, conferences of those interested in a particular question were held. On one occasion a conference committee was appointed, through the action of the convention, in an attempt to reach a compromise agreement in regard to the "initiative." This conference committee did not fully succeed, but it led indirectly to the result finally adopted.

At the outset of the convention it was decided that a complete stenographic report of the debates and proceedings should be made and published. Owing to delay in the printing, the daily reports were not available, as some expected, for following the current work of the convention. But the postponement of the vote of the

electors on the revised Constitution until November gives an opportunity to examine the complete record and to trace the proceedings of the convention from its beginning to the end. And, with all the attention given to the convention by the newspapers, it must be said that a close study of the debates will be necessary to give anything like an adequate comprehension of what was said and done.

During the earlier weeks, while most attention was being given to committee work, there was little talk and no long speeches. But after the New Year, when the convention was holding two and three sessions a day, and the important questions had been reported for action, the record rapidly lengthened. Half a dozen subjects were made the occasion for extended debate. The most prolonged was that on the initiative for constitutional amendments, which continued for four days, and in which more than fifty delegates took part,—doubtless the longest debate in the history of Michigan. Other subjects which received special attention were the questions of salaries, prohibition, woman suffrage, and the modification of the fellow servant rule.

It is notable, however, that most of the changes actually made in the Constitution were agreed to without long discussion; and what seemed to many the most important of all, the home rule provisions for cities and villages were adopted in committee of the whole, after but three sessions, and with only brief speeches on the various sections, instead of lengthy orations on the whole subject. Towards the end of the convention a rule was adopted limiting speeches in committee of the whole to five minutes, and for the last few days the same rule was voted for the convention; but this rule was not infrequently waived by unanimous consent, and there was no effort to suppress the free discussion of any question.

As a whole, the convention gave ample but not an excessive amount of time to speechmaking, and the record of the debates will be considerably shorter than that for the convention of 1867.

A few words may be added as to the work of the committee on arrangement and phraseology, which exercised a larger influence on the language and arrangement of the Constitution than has been usual in state conventions. Every section of the revised Constitution, as agreed to in committee of the whole, was referred to the committee on arrangement and phraseology to recommend such modifications in the language as seemed advisable, before the passage of the sections on second reading. The committee made its recommendations freely, rewriting a good number of sections, and sometimes entirely reconstructing several sections; and it had the satis-

faction of having every one of its recommendations adopted by the convention.

After the various sections had passed second reading they were again referred to this committee for arrangement in the different articles of the complete revision. When this stage had been reached the convention adjourned for twelve days, which gave time for this work to be carefully done, and also permitted the elimination of duplicate and conflicting clauses and further changes in language to be considered and recommended. As a result it is believed that the grouping of the articles and the arrangement of sections in each article is more logical and will help to a clearer understanding of the relations of the various provisions to each other. And while the new Constitution inevitably shows signs of the many hands that shared in its construction, there is more uniformity and less duplication and conflict of provisions than might well be expected in a document which is the composite result of so many men of different minds.

The final week of the convention was given to the consideration of the complete revision, and some further amendments were made in committee of the whole and on third reading. And as the outcome of the thorough consideration and the spirit of concession and compromise on the most controverted questions, on the final vote on the whole Constitution (on February 21) not a single negative vote was recorded,—a result believed to be unprecedented in the history of constitutional conventions, and one which should strongly commend the new Constitution to the people of Michigan.

It may be hoped that the convention procedure and methods of business will have a permanent impress on the future conduct of legislative business in this state. It is true that all the convention rules and practices cannot be fully applied to the larger volume of statutory measures that must be considered at each session of the legislature. But the general principles of publicity, thorough consideration, and careful attention to forms of expression and arrangement can well be more closely followed than they have been; and, if this result is secured, it will be not the least benefit received from this convention.

The action of the convention in voting to have the revised Constitution submitted to the electors at the November election, instead of in April, as had been directed by the legislature, raised a legal question which was brought before the supreme court for decision. The secretary of state, by the advice of the attorney-general's office, considered that he was bound by the legislative statute to give

notice of the submission in April. The convention, after a careful investigation through a committee, decided that the legislature had exceeded its authority, and that it had power to decide when the Constitution should be submitted. On application for a mandamus to compel the secretary of state to issue notices for November, a majority of the supreme court decided in favor of the November election, but four of the five judges concurring in this decision based their conclusion on other grounds than those urged by the representatives of the convention. These judges held that the provision in the existing Constitution requiring amendments to be submitted at a regular election applied also, by implication, to a complete revision; and as no state election was held in April of this year, the revised Constitution could not be then submitted, but must be presented to the electors at the next general election in November. The result of this decision agrees with the decision of the convention; and the postponement of the vote gives opportunity for a more thorough examination of the new instrument before the electors will be called on to decide on its acceptance or rejection.

THE CONSTITUTION

The proposed revised Constitution marks no radical revolution in the system of government that has prevailed in Michigan. The foundations and the framework remain in the main as before. The convention has not followed the example of some of the newer states by incorporating a large body of legislation in the revision. The new Constitution is about the same length as the old; and, like the old, it remains a body of fundamental law, reaffirming the established principles for the protection of life, liberty and property, and providing for the organization of a government for the equal benefit, security and protection of all the people.

This does not mean that no important changes have been made. The development of the state in population, in resources and in its industrial and social conditions has made necessary many alterations. And the revised Constitution, as a whole, may be characterized as one that is conservatively progressive, and one calculated to secure a more efficient administration of government.

In the arrangement of the complete revision into articles some changes will be noticed. There are three new articles,—the declaration of rights, on eminent domain, and on local government. On the other hand, there are a number of consolidations: the former short articles on boundaries and seat of government are united into one; the articles on state officers and salaries are included in that on the

executive department; and the articles on counties and townships are included with the new sections on cities and villages in the new article on local government. The article on the upper peninsula has been entirely eliminated. As a net result the revised Constitution contains but seventeen articles, as compared with twenty in the present instrument.

The Initiative

Turning to an examination of the specific changes in the new Constitution, we may begin with the question which received the longest consideration in the convention and attracted most attention outside, and resulted in the new provision for proposing amendments to the Constitution. This provision is a substantial recognition of the demand for a more direct popular participation in securing constitutional changes; and, while it does not entirely meet the desires of the open advocates of direct legislation, it must be considered a compromise between their views and the wishes of those who were satisfied with the older method of amending the Constitution. It is provided that amendments to the Constitution may be formally proposed by petition of the electors; and when petitions for an amendment are signed in due form by twenty per cent of the vote cast for Secretary of State the proposed amendment must be submitted to the electors for their action, unless it is disapproved by a majority of the legislature in joint session; while when such a petition is presented, the legislature may submit an alternative or a substitute proposal by the same joint majority vote, instead of the two-thirds of *each house* required for amendments originating in the legislature.

It may fairly be assumed that amendments proposed by petition are not likely to be disapproved by the legislature unless there is good reason for such action. It is certainly clear that constitutional changes for which there is a strong popular demand cannot be prevented by a minority of one house, as is possible under the established practice. And it is also clear that the legislature cannot obstruct a proposed amendment by the policy of inaction, but must go openly on record against it in order to prevent a popular vote on its adoption. At the same time, the possible veto of the legislature provides a check in case of radically unjust proposals which might receive the required number of petitioners in a time of special excitement; while the legislature is also permitted to redraft or to amend any amendment proposed by petition, so as to adapt its language and its details to other provisions of the Constitution.

The provisions as to voting on alternative proposals were devised

to prevent any attempt to defeat indirectly an amendment proposed by petition by submitting another amendment on the same subject, which would be likely to divide the affirmative vote and cause the whole question to be lost. This indirect method of defeating a proposed amendment might be attempted where a direct disapproval would not be risked, but this possibility is prevented by the method of voting prescribed.

It may also be noted that the older method of proposing amendments by a two-thirds vote of each house is still retained, and will undoubtedly continue to be used for amendments of less importance which do not arouse a wide popular interest. It is further provided that all proposed constitutional amendments must hereafter be published and printed in full on the ballot.

In connection with methods for changing the Constitution, the revision has also more definitely provided for future conventions. As formerly, the calling of a convention must first be authorized by vote of the electors; but when a convention has been so called, the election of the delegates, the meeting of the convention and the submission of its work to the final vote of the electors are fully authorized without further action by the legislature. These provisions were adopted partly as the result of conditions placed in the act organizing the convention just held, and to make clear the independence of future conventions from control by the legislature or any of the organs of government.

Mention may also be made here of the provision authorizing the legislature to refer any act to a vote of the electors for their approval or disapproval. The referendum has frequently been used for local acts, but under the decisions of the Supreme Court it could not hitherto be used for laws of general application. But full authority will be conferred on the legislature for this purpose under the new Constitution.

Local Government

While the prolonged debates and the narrow margin on the test votes made the initiative the most spectacular question before the convention, its most important work was the grant of powers of local self-government, or home rule, especially to the cities and villages, which was effectively accomplished, with little excitement, because of the general agreement on the main principles involved. The new title, "Local Government," which appears at the head of one of the articles of the revised Constitution, is significant of the results secured, and it is worth noting that this is the first state Constitution to recognize officially that much used phrase.

In regard to cities and villages, the new sections are intended to do away with the enactment by the legislature of special charters or laws for classes of cities. Instead the legislature is to provide simply the general principles and restrictions applicable to all cities and all villages, while under such general laws each city or village will have authority to frame, adopt and amend its own charter with reference to its local concerns. Specific power is granted to each city and village to establish institutions and works for the public health and safety, and on a three-fifths vote of the electors to acquire and maintain public utilities for supplying water, light, heat, power and transportation to its inhabitants and to a limited extent beyond its corporate limits.

The grant of these extensive powers made necessary the imposition of certain restrictions against an unwise use of the authority. Cities and villages will continue to be subject to the Constitution and general laws of the state. The general laws shall limit the rate of taxation and restrict the borrowing of money and the contracting of debts. And in acquiring public utilities provision is made for borrowing money by mortgaging the utility itself instead of pledging the credit of the municipality. This last provision not only furnishes a means of securing funds for such utilities beyond the debt limit, but also restrains the city from imposing an excessive burden on the owners of property, and imposes an automatic check on the mismanagement of such utilities on the part of the holders of such mortgage bonds.

One of the most important sections in the revised Constitution is that reserving to cities, villages and townships the reasonable control of their streets and public places, and more specifically requiring the consent of the local authorities for the use of the highways or streets for any public utility. The grant of irrevocable franchises is made conditioned on a vote of the electors, and in no case can a franchise be granted for a longer period than thirty years. These provisions serve to prevent the legislature from granting rights in the public streets of a local district, to limit the powers of the local officials to make grants without the approval of the electors, and also to guard against the grant of franchises beyond the life of one generation, even by a vote of the present inhabitants. They are in line with the better appreciation of the value of the public ways and the importance of preserving the rights of the public in these ways which has developed in recent years.

Taken together, these provisions establish the principle of local self-government on a much broader and firmer basis in the state of

Michigan than in any state except a few west of the Mississippi river, and it may be said that the grant of home rule is not only adequate, but the more secure because of the limitations provided.

Increased powers are also given to counties, but by specific grants rather than by such general authority as is given to cities and villages. The power to raise money for current expenditure on public buildings and bridges is made to vary with the assessed valuation of the counties. The establishment of county hospitals for contagious diseases is authorized. Compensation and other conditions may be required for permission to dam navigable streams. Provision is made for establishing road districts, as well as county roads, as a means of securing better highways throughout the state; and county auditors may be established without the need for a special amendment to the Constitution on every occasion.

Limitations on the Legislature

The provisions of the revised Constitution already noted serve to limit the authority of the legislature. But various other sections have been added to meet criticisms that have been made of the methods and the conduct of business by the legislative branch of the state government. No bill may be passed until it has been printed for five days in each house. A majority of each house shall at all times have power to take a bill from a committee. Immediate effect may be given only to acts making appropriations and acts necessary for the public peace, health and safety. No special laws may be passed where a general law is applicable,—and throughout the Constitution general laws are required for many purposes—; while in no case shall a special act go into effect until approved by the electors of the district to be affected. All laws must be published within sixty days after the close of the session of the legislature.

By such provisions it is intended to secure a wider measure of publicity and more consideration to all legislation, and to restrict closely the enactment of special laws. Taken in connection with the reduction of the volume of legislative acts made possible by the powers of local government granted, it is expected that they will simplify and improve the work of the legislature and eliminate much of the confusion and uncertainty in the laws of the state.

In other respects the powers of the legislature are enlarged to meet new conditions. The work of reforestation is distinctly authorized. The power to regulate express rates is conferred, and the power to regulate freight and express rates may be delegated to

a commission, as only in this way can such power be effectively exercised. The power to regulate the hours and conditions under which women and children may be employed is specifically mentioned. In compiling the laws from time to time provision is made for the repeal of obsolete laws. Power to create additional courts and establish a system of circulating judges is also conferred. But some of these and other powers will be noted under subsequent headings.

The Executive

Some additional powers are conferred on the governor, in accordance with the recent tendency of political development throughout the world. His veto power is extended to the items of appropriation bills, which places on him a larger responsibility for the expenditures of the state government. An attempt to provide for the preparation of a budget of expenditures was almost adopted, but this proved too serious a departure from established methods. A change in the order of sections emphasizes more strongly the duty of the governor to see that the laws are faithfully executed; and his power to require information from all executive and administrative state officers is more distinctly asserted.

On the other hand, the events of the last session of the legislature led the convention to take from the lieutenant-governor all right to vote in the senate, over which, however, he will continue to preside. A change is made in the provision for filling a vacancy in the office of governor, by which the secretary of state will succeed after the lieutenant-governor, instead of the president *pro-tem.* of the Senate.

The elective state officers remain as before, but authority is given to abolish the office of commissioner of the state land office by law.

The Judiciary

Few changes of importance are made from the existing Constitution, but larger authority is granted for making changes by law in the future, as they may be needed. The number and the term of the justices of the supreme court remain subject to alteration. Judicial districts may be established by combining several circuits, within which districts circuit judges may circulate, holding court from time to time in different counties and circuits. It was believed that such a system of rotating judges would strengthen the judicial system, as it would reduce the danger of local and political influence and prejudice in the decisions of judges. Authority is also given for the creation of additional courts, inferior to the supreme court, by a two-thirds vote of each house of the legislature.

The clerk of the supreme court is made a salaried official. The power to grant additional compensation to circuit judges above the amount from the state treasury may be exercised by the board of supervisors of any county. The jurisdiction of probate judges in juvenile cases is given a constitutional basis, and the legislature is to provide by law for a board of jury commissioners in any county where the electors vote to adopt the act.

Finance and Taxation

By the first section of the article on Finance and Taxation the income from all subjects of taxation now contributing to the primary school interest fund is secured to that fund, including the future increase of such taxes. The continuance of this important source of revenue to the primary schools is therefore assured. Another section will add to the property assessed by the state board of assessors (of which the governor is made a member), the property of express, telegraph, telephone and other transportation companies. While the attempt to provide in the Constitution a special method for the taxation of mortgages was defeated, the general power to impose specific taxes will enable such and other specific taxes to be provided by law.

An important new section prohibits the surrender or suspension of the power of taxation by any grant or contract made by the state or any municipal corporation. This will not prevent exemptions from taxation, such as have been established by law, but will prevent the state or any municipality from contracting away the sovereign power of taxation. The limit on state debt incurred to meet deficits in revenue is increased from \$50,000 to \$250,000, but this is less in proportion to the finances of the state than was the former amount in 1850.

The prohibition on internal improvements has been modified so as to permit the state to engage in the work of reforesting state lands, and by the provisions authorizing cities and villages to acquire and maintain certain public utilities, as well as the former provisions as to wagon roads and the expenditure of grants made to the state. These exceptions to the general prohibition seem to be clearly needed to meet the conditions of the present. Indeed, it may be questioned whether the main prohibition is any longer necessary, in view of the narrow restrictions laid on the power of the state to borrow money, but here again the convention preferred to act conservatively in relaxing the restrictions of the present Constitution.

Recent disclosures as to the handling of state funds were clearly

responsible for another new section, imposing important restrictions on the deposit of such funds. No state money may be deposited in banks other than those organized under the national or state banking laws, nor in excess of 50 per cent of the capital and surplus of any such bank, while any bank receiving such deposits must show the amount in its published statements. The last provision will make public the amounts and places of deposits of state funds.

Still another new section provides that uniform systems of accounting shall be established for all similar state officials, boards and institutions and county officials, for the audit of such accounts by state authority, and for uniform reports of all public accounts to such authority. Such uniform systems of accounting have been established in a number of states, and should improve materially the management of public finances in Michigan, by securing accuracy and publicity to the records of financial transactions.

Education

As a preamble to the article on Education, there has been provided the well known declaration from the Ordinance of 1787: "Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged." This section of itself will not have any important legal effect on the system of education, but the historic phrase is one well worth keeping before the people of the state.

Perhaps the most important changes in this article are those transferring the election of the superintendent of public instruction and the other members of the state board of education to the April election. The state board of agriculture is established as a constitutional body, in control of the agricultural college, and its members will also be elected in the spring. This action should reduce political influences in the selection of these educational officers, and will also add to the importance of the spring elections.

No material change is made in the provisions regarding the University. The superintendent of public instruction is made *ex-officio* a member of the board of regents (as of all other state educational boards), but without a vote. And the control of the board of regents over the University funds is somewhat emphasized.

In regard to the primary school system, two changes have been made. A school district must provide for the education of its pupils for five months, instead of three, to be entitled to its share of the primary school interest fund. But it may provide for this education in another district or districts, thus accommodating sparsely populated districts and permitting the consolidation of schools.

The section dealing with libraries is restored to its original form, requiring all penal fines to be applied for library purposes, including fines collected in the cities as well as counties and townships. This should encourage the formation of libraries in the country districts, and the development of public libraries everywhere throughout the state.

Other Provisions

Other provisions may be briefly noted. The Declaration of Rights is a new article, but the various sections are to be found distributed through the present Constitution. The Michigan Constitution of 1850 is the only state Constitution which does not present these fundamental rights in a separate article; and the convention considered that these declarations were more serviceable when combined in this form, which will also bring the Constitution of Michigan in harmony with the established custom throughout this country.

In the article on the Elective Franchise two changes have been made. The right to vote is conferred on women taxpayers on any question which involves the direct expenditure of money or the issue of bonds. This applies the just principle that no persons' property should be subject to taxation without their voice. By the article on local government women taxpayers are also entitled to vote on the grant of franchises or the acquirement of a public utility in cities and villages. The provision of the present Constitution authorizing laws to preserve the purity of elections and guard against abuses of the elective franchise is made mandatory.

Salaries fixed in the Constitution have been increased to a moderate degree. Members of the legislature will receive \$800 for the regular session, and \$5.00 a day for not more than twenty days at special sessions. The governor and attorney general will each receive an annual salary of \$5,000, and the other elective state officers will each receive \$2,500 a year. The salaries named in the present Constitution are absurdly low, and much less than in almost every other state of the Union. The new salaries provided are not excessive, and are still below those of many other states. The payment of a fixed sum to the members of the legislature for the regular session should encourage shorter sessions and the prompt dispatch of the public business.

Special acts of the legislature are forbidden, not only as formerly, for the creation of corporations, but also for conferring upon them any rights, privileges or franchises. Some additions are made to the classes of corporations which may be created for more than thirty years, and this list includes corporations for municipal, railroad and

canal purposes as before, and also corporations for insurance and cemetery purposes and corporations without capital stock for religious, social or fraternal purposes. In none of these cases does there seem need for the thirty years' limitation.

Instead of the former requirement of a popular referendum, banking laws may be passed or amended by a two-thirds vote of each house of the legislature, and the same condition is required for laws governing trust companies. In view of the practical prohibition of bank notes by the United States 10 per cent tax, it is provided that state banking laws shall not authorize the issue of bank notes.

A new article is that on Eminent Domain, but the principal provisions have been taken with some revision from sections in the old Constitution. The necessity for taking private property for public use, as well as the amount of compensation, must be determined by a jury. The regents of the University are granted the right to take private property for the use of the University by condemnation proceedings.

Eliminations

Forty sections of the present Constitution have been eliminated from the revised Constitution, as obsolete or inapplicable to existing conditions. The whole of old Art. 19, relating to the upper peninsula, has been omitted, these special sections having long since become inoperative, and it is significant that the words "Upper Peninsula" do not appear in the new document. This was done with the approval of the delegates from that part of the state, and the new Constitution considers Michigan as one state, in which all sections will work together for the common good.

Other eliminated sections are those providing for a state census, for the payment of postage on mailable matter sent to the members of the legislature, the disqualification of duellists, providing for a sinking fund, regulating the issue of bank notes, a few others of minor importance, and a number of those in the former schedule. All of these were either useless or in some cases were objectionable, and their elimination reduces the bulk of the revised Constitution and makes all of it applicable to the work of government at the present time.

It is worth noting that as much has been eliminated as the new matter inserted, so that the revised Constitution is substantially of the same length as the present document.

If the work of the convention be compared with the suggestions made by the writer in his former article, it may be said that some of the most important changes made were there outlined. The gen-

eral character of the provisions on local government and the restriction of special legislation were there urged ; and the somewhat limited provision for the proposal of constitutional amendments by popular petition is in line with the tentative suggestion then made. Other suggestions were not adopted, of which the most important was that for a more equitable system of representation in the legislature. A strong sentiment in the convention favored this idea, but it must be admitted that there was no agreement on a definite plan, and the specific criticism of different methods was sufficient to prevent the adoption of any proposal for this purpose. This seems to the writer the most serious omission in the revised Constitution, but that omission does not reduce the value of the meritorious provisions adopted. So, too, nothing was done towards the recognition of the merit system in appointments to the public service, but here again it must be admitted that public opinion in Michigan is not yet aroused to the importance of that reform in the methods of public administration.

On the other hand, the revised Constitution contains many new provisions which were not mentioned in the article noted. That article was necessarily confined to a limited number of suggestions, and at best represented the tentative views of one person, written some months before the election of delegates. The opinions of the assembled delegates inevitably brought forth a much larger number of additional proposals. Something like four hundred altogether were presented to the convention, and from these a fair proportion have found their place in the revised instrument. And it may be said that substantially all of the changes and new provisions adopted by the convention are improvements and will work for the betterment of the government of Michigan. The new Constitution would not have been written, as it stands, by any one of the delegates to the convention. But it represents the results of the combined efforts of all the delegates, after many weeks of serious discussion and deliberation, informally, in committees and on the floor of the convention.

Proposals Not Adopted

Mention may also be made of some of the new proposals that failed to receive the approval of the convention. As more proposals were lost in the convention than were adopted, a proportionate discussion is out of the question, but a brief note may be made of the more important questions that received consideration.

Without doubt the most fundamental proposal was that for the complete program of direct legislation, on the petition of a small percentage of the voters. But this at no time had any prospect of

success, and was, in fact, discussed on the floor of the convention mainly in connection with the proposal for the initiative on constitutional amendments.

Attention has already been called to the failure to provide for a more equitable system of representation in the legislature or for the merit system in appointments to the public service. Other proposals which affected the organization of the governmental machinery were for the preparation of a budget of expenses by the elective state officers acting as a board of estimates, for the consolidation of the management of similar state institutions under central boards of control, for the establishment of a public utilities commission, and for the authorization of a system of state insurance. All of these proposals were recommended or reported by the committees, but failed in the convention. The extension of the elective franchise to women on the same terms as men and the requirement of a literary test for voters were also reported by the committee, but both were defeated in the convention.

Other subjects which attracted attention were more clearly legislative in character, and could not be considered as part of the necessary constitutional framework of government. The prohibition of the liquor traffic and the sale of cigarettes was actively urged; and it is possible that some restrictive liquor legislation might have been adopted had not the supporters of complete prohibition stood for that or nothing. Several proposals were urged in the interest of the labor unions, such as the official establishment of the eight-hour day, the limitation of the power of judges to punish for contempt of court or to decide the question of contributory negligence, and the increase of the liability of railroads in cases of accidents due to the negligence of a fellow servant. On some of these questions legislation is no doubt needed, but the convention considered them not proper subjects for provisions in the Constitution. So, too, the proposal to establish a specific recording tax on mortgages in lieu of the advalorem system failed largely on the ground that it was properly legislative, and should not be permanently established in the Constitution. On the other hand, all suggestions to give the legislature power to control the disposition of the income from railroad taxes were overborne by the strong sentiment throughout the state in favor of maintaining the primary school interest fund intact.

In conclusion, it may be said, in the words of the Address of the Convention to the People of Michigan, that "the revision should be judged, not by proposals *omitted* from its pages, but by the value

and wisdom of its *new provisions*." The question before the electors of Michigan is not whether the instrument contains everything which each voter desired to see included, but whether as a whole it is better adapted to the needs of the people of Michigan than the present Constitution. And, tested by this standard, it can hardly be denied that the revised Constitution contains all that was valuable in the old Constitution, that it eliminates a good deal that was no longer serviceable, and that it includes many new provisions which will make the fundamental law of the state much better adapted to the conditions and needs of the present.

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